IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 22102 OF 2005

Date: 07.10.2005

BETWEEN:

1. P. Subramanyam and another

…. PETITIONERS

And

1. The District Collector, Chittoor, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 22102 OF 2005

ORDER:

The petitioners are residents of Marrigunta village of Renigunta Mandal, Chittoor District. They seek a direction to the respondents, namely, the District Collector, Chittoor, the Revenue Divisional Officer, Tirupati, the Mandal Revenue Officer, Renigunta Mandal, Chittoor and the District Panchayat Officer, Chittoor, to take immediate suitable action in relation to the encroachments made by the villagers on the public street from the house of Dharma Reddy to the house of one N. Munaswamy S/o. N. Kannappa Reddy. It is the case of the petitioners that there are forty houses in the village abutting the main pukka road referred to hereinabove. Many of the villagers encroached upon the street and constructed houses. Aggrieved by the same, the petitioners allegedly made representations to the respondents, in vain. Whereupon, the third respondent visited the area on

10.9.2005. As there was no response from them, the present writ petition is filed.

A perusal of the affidavit accompanying the writ petition and necessary documents annexed thereto would show that petitioners have already filed a suit being O.S.No.1124 of 2002 on the file of the Court of the Principal Junior Civil Judge, Tirupati, seeking permanent injunction and mandatory injunction against M/S. Munaswamy and four others. Even in paragraph-5 of the plaint a similar allegation is made, and in all probability, the trial Court might have framed an issue as to whether there was encroachment of the public street by the defendants therein. Having approached the Civil Court for redressal the petitioners again approached the respondents, and not satisfied with the same they again approached this Court. Therefore, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India in view of the settled position of law that a person cannot avail two remedies simultaneously. However, subject to any orders that might have been passed by the Civil Court, the respondents may initiate necessary action under Section 98 of the A.P. Panchayat Raj Act, 1994.

The Writ Petition, with the above observations, is accordingly, dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

7th October, 2005

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